

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 18th day of June 1998

B E F O R E

THE HON'BLE MR. JUSTICE CHANDRASHEKARAIAH

WRIT PETITION No. 27731/1997

BETWEEN :

Sri. Sripal Annappa Patil,  
Major, Occ: Businessman &  
Agriculturist,  
R/o. at 182, Basti Galli,  
Basavankudachi, Belgaum. 200 .. PETITIONER

(By Sri. Veena I. Antin, Adv.)

AND :

The Commissioner,  
The Corporation of the City  
of Belgaum, Belgaum. .. RESPONDENT

(By Sri. Ravi B. Naik, Adv.)

.. ..

This petition is filed under Articles 226 & 227 of the Constitution of India with a prayer to quash the order vide Annexure-E dt. 16.9.97.

This petition coming on for prl. hg. in BB' Group this day, the Court made the following:-

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O R D E R

On the application made by the petitioner the Corporation has granted licence and approved the plan for construction of building in Belgaum City. It appears on the complaint of Sri. K.A. Makandar and Smt. Kallubai, the Commissioner has suspended the licence in exercise of power under Sec.443(4) of the Karnataka Municipal Corporations Act. The learned Counsel for the Corporation submitted that since the petitioner has obtained the licence by misrepresentation or fraud, the Commissioner was right in suspending the licence in exercise of the power referred to above. From the reading of Annexure-E, I do not find that there is any mis-representation or fraud by the petitioner in order to obtain the licence in his favour. Therefore, the Commissioner was not right in suspending the licence. If the petitioner puts up the construction contrary to the approved plan or of the building by-laws, it is open for the Commissioner to take appropriate action under Sec.321 of the Karnataka Municipal Corporations Act. In the said view of

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of the matter, there is no reason to suspend the licence on the ground that the construction is either contrary to the approved plan or to the building by-laws.

2. In the result I pass the following order:

This Writ Petition is allowed. The order of the Commissioner dt.16.9.1997 produced as Annexure-E is quashed. However, this order will not <sup>Come in the way of</sup> make the Commissioner to take appropriate action under Sec.321 of the Act, if he is of the opinion that the construction is contrary to the approved plan or building by-laws.

Sd/-  
JUDGE

CS/-

